

DETAILED ACTION

1. Claims 12 and 14-19 have been examined. Application 10/661,302 (ADVERTISING SYSTEM) has a filing date 09/11/2003.

Response to Amendment

2. In response to Non Final Rejection filed 10/09/10, the Applicant filed a Request for Reconsideration on 12/31/09.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magazine Advertising Guide for Small ISVs (http://www.ericsink.com/Magazine_Advertising.html) in view of Evans (US 20020036654).

Claim 12, Magazine Advertising Guide teaches:

An advertising system comprising:

receive from a party one or more discount amount to an asking price for a subject matter of said advertisement and offering said one or more discount amount to said consumer (see page 6) but does not explicitly disclosed wherein each incrementally

larger of said discount amount offered by said party to said consumer generates an incremental increase in said advertising size and an incremental decrease in said advertising cost. However, since setting up advertising rates is a business decision by a publisher, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that publishers could decide to charge less for a large advertisement and more for a small advertisement. Since there are only three ways of determining the rates charged for two different sizes of advertisements, (1) higher for larger, (2) lower for larger, or (3) same for all sizes, and no unexpected results are obtained in choosing one rate plan over the other, it would have been obvious for Magazine Advertising Guide to choose any one of the three possible plans including charging lower rate for larger advertisements.

Magazine Advertising Guide does not expressly teach:

A consumer communication device;
A server to which a consumer may link and initiate a consumer inquiry using said consumer communication device and wherein said server is programmed to charge to a party an advertising cost for an advertising size. However, Evans teaches that it is old and well known in the promotion art for advertisers to use computers to access an online web server in order to create and select advertisements to be published in different mediums (see paragraph 60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that advertisers in the Magazine Advertising Guide would use computers to access an online

web server in order to create and select advertisements to be published in different mediums, as Evans teaches that it is old and well known to do so.

Claim 14, Magazine Advertising Guide teaches:

wherein said discount amount ranges from between none to approximately 90% of said asking price (see page 6).

Claim 15, Magazine Advertising Guide teaches:

wherein decreases to said advertising cost are between approximately none when said discount amount is none and up incrementally to 100% as said discount amount is incrementally increased (see page 6).

Claim 16, Magazine Advertising Guide teaches:

wherein increases to said advertising size over a basic size are between none when said discount amount is none and up incrementally, as overall space for an increase in said advertising size permits, (see page 6) but does not expressly teach as said discount amount is incrementally increased. However, the same argument made in claim 12 regarding this missing limitation is also made in claim 16.

Claim 17, Magazine Advertising Guide teaches:

request additional information from said consumer and dependent on answers provided by said consumer, to permit said consumer to select one or more of said one or more discount amount and storing said answers as information about said consumer and making said information available to said party (see page 6).

Claim 18, Magazine Advertising Guide teaches:

provide to said consumer a certificate reflecting said selection and based on said information (see page 6).

Claim 19, Magazine Advertising Guide teaches:

compile a report to said party wherein said report comprises a value between said advertising cost and a frequency of certificates provided on each subject matter of said advertisement (see page 6-7 "graph of the response rate to a magazine ad").

Response to Arguments

4. Applicant's arguments filed 12/31/09 have been fully considered but they are not persuasive. The Applicant argues that Magazine Advertising Guide does not teach Applicant's claimed invention. The Examiner answers that while Magazine Advertising Guide talks about pricing advertisements by physical size, e.g. whole page, half page, etc, it does not explicitly disclose that the prices for the larger advertisements are less than the prices for the smaller advertisements. However, since setting up advertising rates is a business decision by a publisher, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that publishers could decide to charge less for a large advertisement and more for a small advertisement. Since there are only three ways of determining the rates charged for two different sizes of advertisements, (1) higher for larger, (2) lower for larger, or (3) same for all sizes, and no unexpected results are obtained in choosing one rate plan over the other, it would have been obvious for Magazine Advertising Guide to choose any one of the three possible plans including charging lower rate for larger advertisements.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LYNDA C JASMIN can be reached on (571) 272-6782. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Primary Examiner, Art Unit 3688
March 27, 2010